

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Notice of Proposed Rulemaking)	
)	CS Docket No. 02-52
Appropriate Regulatory Treatment for)	
Broadband Access to the Internet Over)	
Cable Facilities)	
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**REPLY COMMENTS OF THE CITY OF INDEPENDENCE, MISSOURI
("INDEPENDENCE")**

These comments are filed by Independence in support of the comments filed by the Alliance of Local Organizations Against Preemption (the "Alliance"). Like the Alliance, Independence believes that (a) local communities should be able to require cable operators to obtain additional authorizations to use and occupy public rights of way to provide cable services, and to enforce existing authorizations that have been granted for the service; (b) should be able to obtain fair and reasonable compensation for use and occupancy of the public rights of way to provide non-cable services; and (c) should be able to regulate cable companies in their provision of non-cable services, as provided under the Cable Act.

These comments will also provide information regarding the status of cable modem service in Independence.

1. Independence and the Status of Cable Modem Service.

Independence has a total population of approximately 114,000. It is served by Comcast which has approximately 32,000 subscribers. The cable system serving Independence offers subscribers cable and cable modem service through a 750 MhZ hybrid fiber coaxial cable system

recently upgraded and rebuilt in accordance with a renewed franchise entered into between Independence and Comcast in 1999.

2. Independence and Cable Modem Service.

The Independence franchise was issued in 1999 and did not directly address cable modem service. However, under the Independence franchise, the definition of gross revenues in Section 1.1.21 is broad enough to include cable modem service. Pursuant to that provision, Independence is entitled to receive franchise fees on cable modem service. Independence received \$30,000 in cable modem franchise fees in 2001 and anticipated this amount will increase with the growth of high speed modem service. These payments were made in consideration of the grant of the franchise. The Independence franchise was written to permit Comcast to provide both cable services and other services, as long as Comcast complied with the franchise terms.

Neither the franchise requirements or the fees have prevented or delayed the roll-out of cable modem service in Independence.

3. How Independence Regulates Cable Modem Service.

Independence regularly receives complaints from customers regarding the services provided by Comcast. These include complaints about traditional video programming services and about cable modem services. Responding to these complaints requires significant staff time and effort.

There are many unique customer service problems associated with cable modem services. In addition, it is often difficult, if not impossible to separate regulation of cable modem service from the regulation of cable service in many critical respects:

- A single bill is sent for cable modem and cable services, so billing complaints involve both.

- Customer service calls go to a single number, so telephone answering policies affect both.
- A customer may call a single location to schedule installation of cable service and cable modem service, and customer complaints about installations and missed appointments may relate to both services.

As a result, when one service has problems, the quality of the other service can be affected. Customers are advised on their bill by Comcast that they can call the City with complaints, and as far as Independence can tell, at no time does Comcast advise the customer that protections accorded with respect to cable service do not apply with respect to cable modem service. In the City's view, there is a substantial and continuing need to protect consumers of cable modem service, in light of the complaints Independence receives, and because of its close tie to video services.

Cable modem service is also subject to the following requirements under the Independence franchise:

- Comcast is required to provide its services throughout Independence, and is prohibited from redlining.
- Comcast is prohibited from discriminating against potential customers.
- Comcast is prohibited from demanding exclusive contracts as a condition of providing service to MDUs and others.

4. Independence and Broadband Deployment.

Independence believes it is very important to encourage broadband deployment, and to encourage development of broadband applications. Independence also believes that in order to achieve the promise of broadband, broadband has to be available to the entire community, as far

as possible. Independence wants to avoid knowledge and opportunity gaps created because some parts of Independence have access to broadband information, while others do not.

To that end, Independence devotes significant resources to take advantage of the information highway and to extend its benefits to all. Independence encourages the development of community interest programming and supports the public, educational, and governmental access channels. For example, Independence City Council meetings and Planning Commission meetings are cablecast live for citizen viewership. Additionally, Independence regularly produces programming on a wide-range of community affairs such as taxes, historic preservations, police and fire and public works. The funds that Independence obtain from cable modem franchise fees are extremely important to help offset the costs of these and other activities. If Independence loses these funds, it will be more difficult to protect consumers, offer the extensive local community video services, and to promote the deployment of broadband throughout the community.

Respectfully submitted,

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